



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/963,513      | 09/27/2001  | Gerhard Grolig       |                     | 1227             |

7590

08/27/2003

Connolly Bove Lodge & Hutz LLP  
1990 M Street NW  
Suite 800  
Washington, DC 20006

EXAMINER

BECKER, DREW E

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1761

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/963,513

Applicant(s)

GROLIG ET AL.

Examiner

Drew E Becker

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3-4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 10-14, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubo et al [Pat. No. 4,428,402] in view of Stall et al [Pat. No. 4,818,551].

Kubo et al teach a food casing comprising an inner hollow cavity, two ends, one end being tied off and turned into the cavity, an outer surface, the turned-in part extending approximately the entire length (Figure 1, #1-2), casing materials such as regenerated cellulose, starch, casein, polymers, synthetic materials, and nylon (column 4, lines 7-16), a lack of soaking, and placing the casing on a filling device to insert and edible filling (column 1, lines 41-50). Kubo et al do not teach an outer coating or impregnation, and liquid smoke. Stall et al teach a food casing impregnated with liquid smoke (column 1, lines 9-14). It would have been obvious to one of ordinary skill in the art to incorporate the liquid smoke of Stall et al into the invention of Kubo et al since both are directed to food casings, since Kubo et al already included various casing materials (column 4, lines 7-16), since liquid smoke was commonly applied to food casings, and since Stall et al teach that it provided uniform color, a smooth outer surface, coherency, a comparable pack ratio (column 3, lines 35-43).

Art Unit: 1761

3. Claims 5-6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubo et al, in view of Stall et al, as applied above, and further in view of EP 0340776A1.

Kubo et al and Stall et al teach the above mentioned components. Kubo et al and Stall et al do not teach a cross-linking agent such as caramel, or a material that reduced water solubility. EP 0340776A1 teaches a food casing comprising caramel and shellac (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the caramel and shellac of EP 0340776A1 into the invention of Kubo et al, in view of Stall et al, since all are directed to food casings, since Kubo et al already included various casing materials (column 4, lines 7-16), since Stall et al already included coloring materials (column 1, line 13), and since the caramel and shellac of EP 0340776A1 provided coloring which was moisture insensitive (page 3, line 7-15).

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kubo et al, in view of Stall et al, as applied above, and further in view of JP 51079748A.

Kubo et al and Stall et al teach the above mentioned components. Kubo et al and Stall et al do not teach polyvinyl pyrrolidone. JP 51079748A teaches a food casing comprising polyvinyl pyrrolidone (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the polyvinyl pyrrolidone of JP 51079748A into the invention of Kubo et al, in view of Stall et al, since all are directed to food casings, since Kubo et al already included various casing materials including synthetic polymers (column 4, lines 7-16), and since JP 51079748A teaches that a laminate including polyvinyl pyrrolidone had improved smoking properties and strength (abstract).

Art Unit: 1761

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kubo et al, in view of Stall et al, as applied above, and further in view of Nausedas [Pat. No. 4,551,370].

Kubo et al and Stall et al teach the above mentioned components. Kubo et al and Stall et al do not teach fill ring. Nausedas teaches a food casing comprising a fill ring (Figure 14, #63). It would have been obvious to one of ordinary skill in the art to incorporate the fill ring of Nausedas into the invention of Kubo et al, in view of Stall et al, since all are directed to food casings, since Kubo et al already included turning an end into the cavity (Figure 1, #1-2), and since the ring of Nausedas also acted as a closure means for when the casing was stuffed.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kubo et al, in view of Stall et al, as applied above, and further in view of Crevasse [Pat. No. 5,215,495].

Kubo et al and Stall et al teach the above mentioned components. Kubo et al and Stall et al do not teach an outer packaging. Crevasse teaches a food casing in an outer packaging (Figure 5, #44). It would have been obvious to one of ordinary skill in the art to incorporate the packaging of Crevasse into the invention of Kubo et al, in view of Stall et al, since all are directed to food casings, since Kubo et al already included a casing which was meant to be shipped (column 1, line 39), and since the packaging of Crevasse protected the casing during transport and prevented de-shirring prior to stuffing (column 2, lines 54-60).


Art Unit: 1761

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hutschenreuter et al [Pat. No. 4,764,031], Hendriks et al [Pat. No. 5,131,883], Winkler [Pat. No. 3,882,252], and Madrigal-Ocegueda [Pat. No. 5,356,331] teach food casings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

  
Drew E Becker  
Examiner  
Art Unit 1761

August 8, 2003